

AMENDED IN ASSEMBLY SEPTEMBER 3, 2009

AMENDED IN ASSEMBLY APRIL 20, 2009

CALIFORNIA LEGISLATURE—2009–10 REGULAR SESSION

ASSEMBLY BILL

No. 639

Introduced by Assembly Member Torlakson

February 25, 2009

An act to add Chapter 11 (commencing with Section 2898) to Part 2 of Division 1 of the Public Utilities Code, relating to taxation, and making an appropriation therefor, ~~to take effect immediately, tax levy.~~

LEGISLATIVE COUNSEL'S DIGEST

AB 639, as amended, Torlakson. Telephone Users Surcharge Act.

The existing Emergency Telephone Users Surcharge imposes a tax on amounts paid by every person in the state for intrastate telephone communication services to fund the emergency telephone number system administered by the Department of General Services.

This bill would, in addition, establish the Telephone Users Surcharge Fund and would require the Public Utilities Commission to assess and collect a monthly \$0.25 surcharge from every service user, as defined, in this state for intrastate telephone communication services or intrastate VoIP service in this state, except as specified. The bill would require the surcharge to be deposited into the fund and would continuously appropriate those moneys exclusively for poison control centers and 911 emergency call centers.

This bill would also appropriate \$3,000,000 from the General Fund to the Emergency Medical Services Authority for the support of poison control centers.

This bill would result in a change in state taxes for the purpose of increasing state revenues within the meaning of Section 3 of Article XIII A of the California Constitution, and thus would require for passage the approval of $\frac{2}{3}$ of the membership of each house of the Legislature.

~~This bill would take effect immediately as a tax levy, but its operative date would depend on its effective date.~~

Vote: $\frac{2}{3}$. Appropriation: yes. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

SECTION 1. Chapter 11 (commencing with Section 2898) is added to Part 2 of Division 1 of the Public Utilities Code, to read:

CHAPTER 11. TELEPHONE USERS SURCHARGE ACT

2898. (a) In addition to any surcharges imposed by other provisions of the law, a surcharge is hereby imposed at a rate of twenty-five cents (\$0.25) for every service user in this state for intrastate telephone communication service or intrastate VoIP service in this state to the extent permitted by state or federal law. The surcharge shall be paid by the service user.

(b) The surcharge shall be assessed to each service user on a monthly basis, and shall be collected and administered by the Public Utilities Commission.

(c) The surcharge imposed shall not apply to either of the following:

(1) In accordance with the Mobile Telecommunications Sourcing Act (Public Law 106-252), which is incorporated herein by reference, to mobile telecommunications services billed to a customer where those services are provided, or deemed provided, to a customer whose place of primary use is outside this state. Mobile telecommunications services shall be deemed provided by a customer's home service provider to the customer if those services are provided in a taxing jurisdiction to the customer, and the charges for those services are billed by or for the customer's home service provider.

(2) To VoIP service billed to a customer where those services are provided to a customer whose place of primary use of the VoIP service is outside this state.

1 2898.2. Except where the context otherwise requires or as
2 otherwise provided in this chapter, the definitions contained in
3 Part 20 (commencing with Section 41001) of Division 2 of the
4 Revenue and Taxation Code shall govern the construction of this
5 chapter.

6 2898.3. “Service user” means any person who pays for
7 intrastate telephone communication services or VoIP service for
8 residential, personal use in this state and who is required to pay a
9 surcharge under the provisions of this chapter.

10 2898.4. (a) The Telephone Users Surcharge Fund is hereby
11 created in the State Treasury.

12 (b) (1) All funds collected pursuant to this chapter shall be
13 deposited in the Telephone Users Surcharge Fund.

14 (2) Funds collected pursuant to this chapter and deposited in
15 the Telephone Users Surcharge Fund shall be continuously
16 appropriated to the Public Utilities Commission for the purposes
17 specified in Section 2898.6.

18 2898.6. Moneys in the Telephone Users Surcharge Fund shall
19 be expended as follows:

20 (a) Twelve million dollars (\$12,000,000) per fiscal year for the
21 support of poison control centers, as defined in Section 1797.97
22 of the Health and Safety Code.

23 (b) The remainder of the funds for the operational expenses,
24 excluding costs for equipment, for 911 emergency call centers,
25 including those 911 emergency call centers operated by the
26 Department of the California Highway Patrol.

27 ~~2890.8.~~

28 2898.8. It is the intent of the Legislature that telephone quality
29 communication utilizing VoIP shall not be regulated by the
30 enactment of Assembly Bill 639 of the 2009–10 Regular Session.

31 ~~2890.10.~~

32 2898.10. The surcharge imposed by Section 2898 attaches at
33 the time charges for the intrastate telephone communication
34 services and VoIP service are billed by the service supplier to the
35 service user and shall be paid by the service user when paying for
36 such services.

37 ~~SEC. 2.—This act provides for a tax levy within the meaning of~~
38 ~~Article IV of the Constitution and shall go into immediate effect.~~
39 ~~However, the provisions of this act shall become operative on the~~

1 ~~first day of the first calendar quarter commencing more than 90~~
2 ~~days after the effective date of this act.~~
3 *SEC. 2. The sum of three million dollars (\$3,000,000) is hereby*
4 *appropriated from the General Fund to the Emergency Medical*
5 *Services Authority for the support of poison control centers, as*
6 *defined in Section 1797.97 of the Health and Safety Code.*

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